IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 17TH APRIL 2007 / 27TH CHAITHRA 1929

WP(C).No. 12555 of 2007(T)

PETITIONER:

P.J.DAVIS,PULLOKKARAN HOUSE, IRINJALAKUDA,
THRISSUR DISTRICT.

BY ADV. SRI.P.SANTHALINGAM
SRI.S.SHARAN

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY SECRETARY
TO GOVERNMENT,SECRETARIATE,THIRUVANANTHAPURAM.

2. THE TAHSILDAR (R.R),MUKUNDAPURAM,TRICHUR
DISTRICT.

3. ASSISTANT EXCISE COMMISSIONER,THRISSUR.

4. EXCISE CIRLCE INSPECTOR,IRINJALAKUDA,
THRISSUR DISTRICT.

5. COMMISSIONER OF EXCISE,THIRUVANANTAPURAM

BY GOVT. PLEADER SRI.A.J.VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.12555 OF 2007)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of the Minutes dtd.12.4.96 by the Dy.Collector (Housing), Thrissur.

Ext.P2: Copy of the judgment in OP No.25195/2000 dtd.27.10.2005 before this Court.

Ext.P3: Copy of the Notice dtd.8.3.2007 issued by R2.

Ext.P4: Copy of the Acknowledgement Receipt No.8 dtd.26.3.2007 issued by R2.

Ext.P5: Copy of the Certificate dtd.30.3.2007 issued by the Excise Division Office, Thrissur.

Ext.P6: Copy of the letter dtd.30.3.2007 issued by the Excise Division Office, Thrissur.

Ext.P7: Copy of the application dtd.29.3.2007 submitted by the petitioner before the Tahsildar, Mukundapuram.

Ext.P8: Copy of the Bank Guarantee No.1 dtd.3.4.2006 in the State Bank of Travancore.

Ext.P9: Copy of letter in Extention of Bank Guarantee No.1/2006-07 dtd.31.3.2007 sent by State Bank of Travancore to the Asst.Excise Commissioner, Trichur.

Ext.P10: Copy of the reply No.D2-10604/86/Abkari dtd.4.4.2007 issued by 2nd respondent to the petitioner.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) NO. 12555 OF 2007 T

Dated this the 17th day of April, 2007

J U D G M E N T

Heard both sides. The petitioner seeks a direction to respondents 3, 4 and 5 to renew his FL-3 licence No.TSR 11 for the period 2007-08. The learned counsel for the petitioner submits that by Ext.P6, the petitioner's application has been rejected on two grounds as follows:-

> "1. Necessary Demand Drafts has not been enclosed with application.
> 2. As per the office records, you are the abkari defaulter for Rs.24,62,765 as on 30.3.2007. Hence 50% of the arrear amount has to be remitted prior to the renewal of the licence. But 50% of the arrear amount has not been remitted."

Learned counsel for the petitioner submits that the demand drafts have already been submitted and the petitioner also produced the bank guarantee for Rs.15 lakhs, which would be more than 50% of Rs.24,62,765/- mentioned in Ext.P6. The petitioner submits that he has no objection in the respondents encashing the bank guarantee which would satisfy the payment of 50% of the arrear amount as directed in Ext.P6. The

petitioner submits that if that relief is granted, the petitioner is prepared to withdraw all other contentions in the writ petition.

2. In the above circumstances, the writ petition is disposed of with the following directions:-

Respondents 3,4 and 5 shall encash the bank guarantee furnished by the petitioner for Rs.15 lakhs and if the petitioner has already submitted the demand drafts mentioned in the first objection in Ext.P6, there would be a direction to respondents 3,4 and 5 to consider the application of the petitioner for renewal of his FL-3 licence No.TSR 11 and if there are no other objections for renewing the same, they shall renew the licence forthwith. There would be a direction to the second respondent- Tahsildar to forward the amounts realised by sale of the petitioner's property as evidenced by Ext.P10 to respondents 3, 4 and 5 who shall take into account that payment while considering the application for renewal submitted by the petitioner.

Sd/-
S. SIRI JAGAN,
Judge

Mbs/

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:13-02-2007